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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,763

05/13/2005

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EXAMINER

MCCRACKEN, DANIEL

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

03/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/534,763	Applicant(s) TANAKA, MASAKO	
	Examiner DANIEL C. MCCracken	Art Unit 1793	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Citation to the Specification will be in the following format: (S. # : ¶/L) where # denotes the page number and ¶/L denotes the paragraph number or line number. Citation to patent literature will be in the form (Inventor # : LL) where # is the column number and LL is the line number. Citation to the pre-grant publication literature will be in the following format (Inventor # : ¶) where # denotes the page number and ¶ denotes the paragraph number.

Response to Arguments

Status of the Application

Claims 1-27 have been cancelled. Claims 34-41 have been added. The amendments will be entered.

Claim Rejections – 35 U.S.C. §§ 101, 112

Claims 9 and 13 have been cancelled, mooted the rejections. Accordingly the rejections are WITHDRAWN.

Claim Rejections – 35 U.S.C. §§ 102-103

Cancellation of Claims 1-27 moots the rejections of those claims. Accordingly, the rejections of those claims are WITHDRAWN. Applicants arguments with respect to the remaining claims have been considered and are persuasive. Accordingly, the rejections are WITHDRAWN.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30, 33, 35-39, and 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The “400 to 600 °C” and “600 to 900 °C” language in Claim 30 is not understood. It would appear as if a range of temperatures was contemplated, but as drafted this construction effectively limits the temperature to 600 °C. Claim 39 (which depends indirectly upon Claim 30) implies two discrete steps were intended. As drafted, Claim 39 lacks proper antecedent basis.

Claim 35 (the companion to Claim 34) would appear to have some language omitted, making it an improper Markush group, lacking antecedent basis, or both. Stated differently, the claim would appear to be missing “carbon is a” between “active” and “thermoplastic.”

As to Claim 33, “easily graphitizable carbon” is not understood. Graphitization is not a matter of “ease,” but rather a matter of temperature. If you treat a carbonaceous substance at (approximately) 2500-3000 °C, it will graphitize. Furthermore, as claims 28 and 29 would appear to recite both an intermediate and final product, it is not clear which product is being referred to. Likewise, in Claims 36-38 and 40, “non-graphitizable” is not understood for similar reasons. Carbon, when heated to sufficient temperatures, will graphitize. The Examiner’s previous remarks (see office action dated 9/2/2008) related to whether “hardly” and “non” can be interchanged are also incorporated herein by reference.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The reference teaches each and every limitation of the rejected claims. The pinpoint citations are in no way to be construed as limitations of the teachings of the reference, but rather illustrative of particular instances where the teachings may be found.

Claims 28-35 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,556,547 to Nishino, et al.

With respect to Claim 28 , Nishino teaches “adding an alkaline earth metal compound to a raw material for activated carbon, effecting carbonization/activation by a conventional method, admixing to the resultant activated carbon with a copper compound and an alkali metal compound, either simultaneously or separately, and drying or calcining the mixture.” (Nishino 3: 31-38). As to Claim 29, the Nishino carbonization/activation would result in vaporization of the alkaline compound. *Id.* As to Claim 30, notwithstanding the 112 issues *supra*, Nishino teaches temperatures of 650 and 900 °C. *See generally* (Nishino 10: 44 *et seq.*). As to Claim 31, alkali metal hydroxides are taught. (Nishino 1: 62-63). As to Claim 32, potassium, sodium and cesium are all taught. *Id.* As to Claims 33-35 (and notwithstanding the 112 issues *supra*), Nishino teaches resins. (Nishino 1: 50).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. The references cited teach each and every limitation of the rejected claims. The pinpoint citations are in no way to be construed as limitations of the teachings of the reference, but rather illustrative of particular instances where the teachings may be found.

Claims 28-41 rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,556,547 to Nishino, et al. in view of US 6,094,338 to Hirahara, et al.

The preceding discussion of Nishino accompanying the anticipation rejection *supra* is expressly incorporated herein by reference. Notwithstanding the 112 issues *supra*, with respect to the coating step claimed in Claims 36-41, to the extent Nishino may not teach this step, this reads on the conventional addition of a binder for making capacitors. *See* (Hirahara 10: 23) (addition of polyvinyl alcohol, phenol resin) *and* (Hirahara 10: 45 *et seq*) (heat treatment). This is an obvious expedient to facilitate capacitor/electrode manufacture.

Conclusion

All amendments made in response to this Office Action must be accompanied by a pinpoint citation to the Specification (i.e. page and paragraph or line number) to indicate where Applicants are drawing their support.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL C. MCCracken whose telephone number is

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(571)272-6537. The examiner can normally be reached on Monday through Friday, 9 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on (571) 272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel C. McCracken/

Examiner, Art Unit 1793

Daniel C. McCracken

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DCM

/Stanley Silverman/

Supervisory Patent Examiner, Art Unit 1793